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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,759	11/13/2003	Martin C. Baker	H0005486	3576
128	7590	04/18/2005	EXAMINER	
HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245			EVANS, GEOFFREY S	
			ART UNIT	PAPER NUMBER
			1725	

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,759

Applicant(s)

BAKER ET AL.

Examiner

Geoffrey S. Evans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 24 is/are rejected.
- 7) ☒ Claim(s) 22 and 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20031113</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. In the specification in the first paragraph, please update the status of 10/460,008, which has issued as U.S. Patent No. 6,774,338.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3-17 of copending Application No. 10/721,632. Although the conflicting claims are not identical, they are not patentably distinct from each other because the transition word "comprising" in claim 1 does not exclude an end cap.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 1-17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/741,114. Although the conflicting claims are not identical,

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they are not patentably distinct from each other because in claim 1 of the instant application the word "comprising" does not preclude extension tips from being present.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1,5,6,8,12,15,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasuda in Japan Patent No. 9-103,896 in view of Jones et al. in U.S. Patent No. 4,564,736. Yasuda discloses a laser fusion welding assembly that supplies a filler wire (element 33; see figure 10 and paragraph 31) through the laser welding assembly and using an optical fiber to transmit the laser beam. Jones et al. teaches using a hand held laser fusion assembly including a main body (element 20) and a nozzle (element 22). It would have been obvious to adapt Yasuda in view of Jones et al. to provide this to make the apparatus easily adjustable by manual movement. Regarding claim 12, Yasuda discloses a wire feeder (see paragraph 31). Regarding claims 5,6,15 and 16, Jones et al. teaches a lens conduit (element 21 in figure 3), and a first collimating lens (element 24) and a second lens (element 26) to focus the laser beam. It would have been obvious to adapt Yasuda in view of Jones et al. to provide this to focus the laser beam.

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7. Claims 18,19,20,23,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onodera et al. in Japan Patent No. 9-323,185 in view of Onodera in Japan Patent No. 11-347,774. Onodera et al. (185) directs a laser beam through a wand (element 21) including a handle (element 13) that is manually controlled. Onodera et al. (185) does not disclose manually controlling the filler media source. Onodera (774) teaches manually adjusting the filler media source through a lever (element 31) to supply the filler media along a second axis. It would have been obvious to adapt Onodera et al. (185) in view of Onodera (774) to provide this to allow the user to control the filler media while manually controlling the handle of the wand.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Onodera et al. in Japan Patent No. 9-323,185 in view of Onodera in Japan Patent No. 11-347,774 as applied to claim 18 above, and further in view of Sakamoto et al. in U.S. Patent No. 5,446,257. Sakamoto et al. teaches supplying a filler wire before the melt pool is created (see column 5, lines 60- 64). It would have been obvious to adapt Onodera et al. (185) in view of Onodera (774) and Sakamoto et al. to provide this to ensure that the entire melt pool has filler material.

9. Claims 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baker et al. in U.S. Patent No. 6,593,540 discloses in figure 3 supplying filler material through the nozzle (but not the main body). Pratt in GB

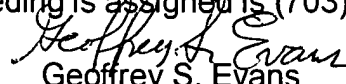
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2,227,964 discloses supplying filler material through the nozzle. Matsunaga in Japan Patent No. 59-70,487 supplies a filler wire through a nozzle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey S Evans whose telephone number is (571)-272-1174. The examiner can normally be reached on Mon-Fri 6:30AM to 4:00 PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571)-272-1171. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306.

GSE


Geoffrey S. Evans
Primary Examiner
Group 1700